

money for interest were so restricted in accordance with ethical and economic faiths that they were environed by crimes which are now obsolete. Heresy and sorcery were once very great crimes. Witchcraft and usury were abominable crimes.

212. Criminal law. In the original administration of justice it appears that there was only one punishment for the violation of taboo, sin and crime being coincident: that was death. Then, in cases, banishment was substituted for death, although this was only a change in form, since a banished man could not exist alone. In either case the selection was of the simplest kind. The society extruded from itself one who violated its rules. This is the fundamental sense of all punishments, like execution, transportation, or imprisonment, which remove the culprit from the society, permanently or for a time. Other punishments contained originally a large element of vengeance, vengeance being a primary impulse of great force to satisfy those whom the crimes injured and to deter others from the same crime. The administration of justice, therefore, bore witness to the judgment of the society as to what conduct and character should be selected for preservation or caused to cease. In all modern states the power to make acts crimes has been abused, and the motive of punishment has been so lost that we wrangle as to what it is. The ruling coterie uses the power to make things crimes to serve its own interests.

Protectionists make it criminal to import goods. Governments do the same to further their fiscal purposes. They also make it criminal to immigrate or emigrate, or*to coin money, even of full weight and fineness, or to carry letters and parcels. In England it is made a crime to violate railroad

regulations. In some cases regulations for barber shops are enforced by making violations crimes. Generally, sanitary rules are so enforced. In the latest case it has been made a crime to spit in public places. The criminal law expresses the mores of the time when they have reached very concrete and definite formulae of prohibition. Perhaps the administration of it expresses the mores still more clearly. It is now recognized as true that frightful penalties do not exert a proportionately deterrent effect. Our mores do not permit us to inflict pain in order to compel men to confess, or to put them